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PATENT APPLICATION

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IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Ravikumar Pisupati

Confirmation No.: 3020

Application No.: 10/052,612

Examiner: AVELLINO, Joseph E.

Filing Date: January 17, 2002

Group Art Unit: 2146

Title: **A Computer Network for Providing Services and a Method of Providing Services with a Computer Network**

Mail Stop Appeal Brief - Patents
Commissioner For Patents
PO Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF REPLY BRIEF

Transmitted herewith is the Reply Brief with respect to the Examiner's Answer mailed on September 25, 2008 .

This Reply Brief is being filed pursuant to 37 CFR 1.193(b) within two months of the date of the Examiner's Answer.

(Note: Extensions of time are not allowed under 37 CFR 1.136(a))

(Note: Failure to file a Reply Brief will result in dismissal of the Appeal as to the claims made subject to an expressly stated new ground rejection.)

No fee is required for filing of this Reply Brief.

If any fees are required please charge Deposit Account 08-2025.

Respectfully submitted,
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REPLY BRIEF

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Sir:

This is a Reply Brief under Rule 41.41 (37 C.F.R) in response to the Examiner's Answer of September 25, 2008 (the "Examiner's Answer" or the "Answer"). In Section 10, the Answer contains a response to some of the arguments made in Appellant's brief. Appellant now responds to the Examiner's Answer as follows.

(1) Claims 1, 4-6, 11, 13, 15, 16 and 21 are patentable over Tripathi, Aweya, and

Peterson:

Claim 1:

Claim 1 recites:

A computer network for providing services comprising:
a plurality of computing elements each of which comprises general-purpose, programmable computing resources that can be selectively programmed for supporting one or more of a plurality of different electronic services, wherein said services are controlled or operated by commands or data transmitted via email;
a mail server for receiving and routing email; and
a redirector, separate from said mail server, communicatively connected to said mail server and each of said computing elements, wherein said redirector receives email from said mail server, wherein each email contains a command or data for a specific said service, with or without being addressed to a specific computing element, and *wherein said redirector is configured to selectively match an available computing element with a specific service request of an incoming email, whether or not said email is addressed to a specific computing element, and forward at least a portion of the email to that computing element so as to deliver said command or data to that specific service, such that said redirector serves as an email proxy for said plurality of computing elements;*
wherein said electronic services are controlled by said email routed by said redirector among said plurality of computing elements.

(Emphasis added).

As Appellant has noted, the cited prior art references taken in any combination do not teach or suggest an email redirector that is “*configured to selectively match an available computing element with a specific service request of an incoming email, whether or not said email is addressed to a specific computing element, and forward at least a portion of the email to that computing element so as to deliver said command or data to that specific service, such that said redirector serves as an email proxy for said plurality of computing elements....*” (Emphasis added).

The important point here is that the redirector has discretion to “*selectively match an available computing element with a specific service request ... whether or not said email [carrying that service request] is addressed to a specific computing element.*” (Claim 1)

(emphasis added). In prior art systems, if an emailed service request is addressed to one or a group of specific computers, there is no discretion in the system to re-route that service request to a different computing element that was not addressed, even though a different computing element would have the ability to more efficiently handle the service request.

In the Answer, the “Examiner interprets the phrase ‘a specific computing element’ as *a single computing element*.” (Answer, p. 12) (emphasis in original). Appellant respectfully disagrees and notes that there is no reason on the record to limit a specific or specified computing element to being only a *single* computing element. If an email is addressed to a specific group of computers or servers, that group of computers or servers is the “specific” or specified computing element to which the email is addressed. The point being that, in any such case, the system has no discretion to service the request in the email with computing resources other than that specified. The claimed redirector provides that discretion to the system, allowing a service request to be routed to the computing element that can most efficiently service the request, irrespective of how the request was originally addressed.

Thus, the Examiner’s confusion in this area is a product of a faulty initial assumption, that the phrase “a specific computing element” must refer only to a single computer, and from a failure to understand the significance of giving the redirector discretion “*to selectively match an available computing element with a specific service request of an incoming email*,” irrespective of how that email is addressed. (Claim 1).

Next, the Answer concedes that Tripathi does not teach or suggest anything like the claimed redirector. Tripathi does not teach or suggest any device that routes email data among a plurality of computing resources based on the availability of computing resources rather than an email address. In the Answer, “[t]he Examiner agrees.” (Answer, p. 13).

However, the Examiner argues that “[i]t is *the combination* of Tripathi in view of Aweya which meet[s] the claimed invention.” (*Id.*). Appellant respectfully disagrees. Aweya, like Tripathi above, does not teach or suggest any element like the claimed redirector with the discretion to route emails, irrespective of addressing, to an available computing element.

According to the Answer, “Aweya discloses another web service processing system which discloses receiving a request for a service, and, based on resource availability, will determine [to] which server to route the request.” (Answer, p. 13). What the Answer overlooks is that the Aweya system does not use or involve emails and that requests in the Aweya system are *never* addressed to specific servers. Rather, Aweya teaches a system for managing a server farm that is accessed through a web browser and the world wide web. (Aweya, col. 1, lines 36-41). Thus, Aweya cannot make up the deficiencies of Tripathi because Aweya, like Tripathi, utterly fails to teach or suggest the claimed “redirector [that] is configured to selectively match an available computing element with a specific service request *of an incoming email, whether or not said email is addressed to a specific computing element*, and forward at least a portion of the email to that computing element so as to deliver said command or data to that specific service, such that said redirector serves as *an email proxy* for said plurality of computing elements.” (Claim 1) (emphasis added).

According to the Answer, the Appellant is impermissibly “arguing against the references individually.” (Answer, p. 14). Appellant respectfully disagrees. Appellant is merely and accurately pointing out that none of the cited references teach or suggest the claimed redirector. This is a fact that the Examiner insists on overlooking. Rather, it appears that the Examiner hopes that, while none of the cited prior art references teach or suggest the

claimed redirector, this glaring deficiency will somehow be magically negated by citing multiple, disparate references. This is not the case.

The Answer further argues that the “fact that email is not used [in Aweya] is irrelevant.” (Answer, p. 14). This is clearly incorrect because Appellant’s claimed system specifically provides an increase in efficiency where email is addressed to a computing element that cannot provide peak efficiency. Consequently it is clearly unreasonable for the Examiner to disregard the significance of using email in the claimed subject matter.

Once the advantages of the claimed subject matter are appreciated, e.g., that the claimed redirector provides a previously unachieved efficiency expressly using an email-based communication, it becomes clear that the cited prior art does not teach or suggest the claimed subject matter. Most importantly, the cited prior art does not put one of skill in the art in possession of the advantages and features of the claimed subject matter.

For at least these reasons, and Appellant’s previous explanations on the record, the Board should not sustain the rejection of claims 1 and 11, and their respective dependent claims, based on Tripathi, Aweya and Peterson.

Claim 14:

Appellant has previously noted that claim 14 recites “wherein said step of extracting an access function further comprises extracting a service from said email, and said step of complying with said extracted access function further comprises *loading the extracted service to one of said computing elements with available computing resources.*” (Emphasis added). As Appellant correctly noted, claim 14 was overlooked and not addressed in the final Office Action.

In the Answer, the Examiner refers us to a previous “Rejection dated May 23, 2008” for treatment of claim 14. (Answer, p. 16). Appellant questions whether it is proper to refer to previous prosecution rather than the current Action in addressing a claim. Nevertheless, to respond to the Answer, Appellant notes that the previous Action of May 23, 2008 cites Hartman (of record), in combination with the principal references of Tripathi, Aweya and Peterson, in rejecting claim 14. According to the May 23rd Office Action, “Hartman discloses a server (i.e. applications management server 12) which receives a request from a user in order to launch a service.” (Action of May 23, 2008, p. 9).

Assuming this is a correct statement of the teachings of Hartman, the combination still fails to teach or suggest all of the claimed subject matter. For example, the mere fact that Hartman teaches a server that launches a service upon user request overlooks the recitations in claim 14 that the service in question is first extracted “from [an] email” and then loaded “to one of said computing element with available computing resources” under the direction of the claimed redirector. (*See*, claim 13 from which 14 depends).

Thus, the rejection of claim 14 resurrected from the non-final Action of May 23, 2008 fails to take into account all the features of claim 14. For at least this reason, if the attempted rejection of claim 14 is proper, that rejection should not be sustained.

Claim 15:

Claim 15 recites “wherein said commands or data comprise a specified location from which a service is to be obtained, said method further comprising obtaining said service from said specified location.” As noted by the Appellant, the final Office Action failed to address claim 15.

In the Answer, the Examiner now proposes that claim 15 should be considered rejected on the same grounds as claim 6, although such was never stated in the final Office Action. In rejecting claim 6, the Answer argues “Tripathi discloses the commands or data comprises a specified location where a service can be accessed (i.e. service performer 120 may contact server 120, obtain health information from server and generate service outcome) (Figure 3; ¶ 26).” (Answer, p. 6).

This argument, however, disregards the meaning of the term “service” as used in the art and in Appellant’s specification. A “service” is, for example, a program executed by a computer. (See Appellant’s specification, paragraph 0004). Thus, claim 15 refers to a service request that includes commands or data that specify a location from which a service can be obtained and the claimed method includes obtaining, e.g., downloading, the service from that location.

Consequently, Tripathi’s teachings, as construed by the Answer, of obtaining health information from a server and reporting the outcome have nothing to do with obtaining a service from a specified location recited in claim 15. What the Answer describes in the teachings of Tripathi is executing a service, not obtaining a service as in claim 15.

Therefore, if the final Office Action is deemed to have made an effective rejection of claim 15 without actually addressing claim 15, Appellant submits that, for the reasons explained here, the cited prior art has not been shown to teach or suggest all the features of claim 15 and that the rejection of claim 15 should, therefore, not be sustained.

(2) Claims 2, 3, 8, 9, 12, 17, 18 and 24 are patentable over Tripathi, Aweya Peterson and Motoyama:

Claims 8 and 17:

Additionally, claim 8 recites: “a firewall through which said email messages are received, said mail server and redirector both being protected within a common firewall.” Claim 17 recites similar subject matter. In this regard, the Examiner takes “Official Notice” “that both the concept and advantages of providing for a firewall to protect the email processing center is well known.” (Final Office Action, p. 7). This is irrelevant. Appellant has not “traversed” the Official Notice taken, but rather has pointed out that the Notice taken does *not* support the conclusion of obviousness drawn by the final Office Action. (final Office Action, p. 14). The Answer attempts to address this argument by restating the conclusion that “[o]ne of ordinary skill in the art would clearly understand that any number of devices can be on both sides of the firewall.” (Answer, p. 17).

Again, Appellant points out that claim 8 does not merely recite a firewall separating devices. Rather, claim 8 expressly recites that both a server and redirector as defined and claimed by Appellant are protected within a common firewall.

Because the claimed redirector is unique and has not been taught or suggested by the cited prior art, its claimed placement within a common firewall with a mail server is also novel and unobvious. As explained in Appellant specification, it is significant that the server and redirector are protected within a common firewall as recited in claim 8.

Because the Examiner refuses to address all the subject matter of claim 8, the Examiner has failed to resolve the factual inquiries required by *Graham v. John Deere*, 383 U.S. 1 (1966) and *KSR International Co. v. Teleflex Inc.*, 550 U.S. ___, 82 USPQ2d 1385

(2007), namely, the actual differences between the cited prior art and claimed subject matter. Therefore, no *prima facie* case of obviousness has yet been made against claim 8 and the rejection of claim 8 should not be sustained.

Claim 9:

Claim 9 recites “further comprising a web client within said firewall communicating with said redirector to obtain access to said services.” Claim 18 recites similar subject matter.

In this regard, the Answer treats claim 9 as reciting any web client within a firewall. (Answer, p. 18). However, this clearly overlooks much of the substance claimed. Claim 9 recites a web client within a firewall that also encloses the claimed redirector, the claimed web client “communicating with said redirector to obtain access to said service.” (Claim 9).

As demonstrated herein, the claimed redirector is not taught or suggested by the cited prior art. Consequently, the Answer’s is clearly incorrect in arguing that the subject matter of claim 9, including the relationship between the web client and redirector, is taught by the cited prior art.

Because the Examiner refuses to address all the subject matter of claim 9, the Examiner has failed to resolve the factual inquiries required by *Graham v. John Deere*, 383 U.S. 1 (1966) and *KSR International Co. v. Teleflex Inc.*, 550 U.S. ___, 82 USPQ2d 1385 (2007), namely, the actual differences between the cited prior art and claimed subject matter. Therefore, no *prima facie* case of obviousness has yet been made against claim 9 and the rejection of claim 9 should not be sustained.

(3) Claims 10, 19 and 20 are patentable over Tripathi, Aweya, Peterson, Motoyama and Weber:

The Answer states incorrectly that “Appellant has failed to provide any substantive arguments for claims 10, 19 and 20.” (Answer, p. 18). In fact, Appellant’s brief contains a detailed substantive argument for claims 10, 19 and 20.

Rather than repeat those arguments, Appellant will merely refer to the Brief and note that no substantive response to those arguments is made in the Examiner’s Answer.

(4) Claims 14, 22, 23, 26-29, 31 and 32 are patentable over Tripathi, Aweya, Peterson, and Hartman:

Claim 26:

Additionally, claim 26 recites:

A computer network for providing electronic services comprising:
a plurality of computing elements each of which comprises general-purpose, programmable computing resources that can be selectively programmed for supporting one or more of a plurality of different electronic services, wherein said services can be controlled or executed by commands or data transmitted via email;
a mail server for receiving and routing email; and
a redirector, separate from said mail server and said plurality of computing elements, communicatively connected to said mail server and each of said computing elements, wherein said redirector receives email from said mail server, wherein each email contains a command or data for a specific said service, with or without being addressed to a specific computing element, and wherein said redirector is configured to selectively match an available computing element with a specific service request of an incoming email and forward at least a portion of the email to that computing element so as to deliver said command or data to that specific service, such that said redirector serves as an email proxy for said plurality of computing elements; and
a service handler on at least one of said computing elements for automatically obtaining an electronic service using an incoming email and installing that service on the computing element corresponding to the service handler.

(Emphasis added).

In this regard, the Answer merely makes the conclusory statement that “the combination of Tripathi-Aweya-Peterson-Harman clearly meet the claimed limitations and

therefore the rejection should be maintain.” (Answer, p. 18). This is incorrect for the reasons given above with respect to claim 15 and the reasons given in Appellant’s brief. The unsupported conclusory statements of the Answer to the contrary are insufficient to support a rejection.

In a recent decision, the Board of Patent Appeals and Interferences stated the following:

The Examiner’s articulated reasoning . . . in the rejection must possess a rational underpinning to support the legal conclusion of obviousness. *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). The Supreme Court, reiterating this reasoning by citing *In re Kahn*, 441 F.3d at 988, stating that ‘rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.’ *KSR* at 1741.

Ex Parte Val Mandrusou, Application Serial No. 10/235,221, 2008 WL 2845083 (B.P.A.I. 2008).

Therefore, the rejection of claim 26 should not be sustained.

(5) Claim 25 is patentable over Tripathi, Aweya, Peterson, Motoyama and Hartman:

This rejection should not be sustained for at least the same reasons given above with respect to the independent claims.

In view of the foregoing, it is submitted that the final rejection of the pending claims is improper and should not be sustained. Therefore, a reversal of the Rejection of January 15, 2008 is respectfully requested.

Respectfully submitted,

DATE: November 19, 2008

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